IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL MISCELLANEOUS APPLICATION NO. 218 OF 2005

Smt. Ida Nunes
w/o Joseph Nunes,
Major in age,
Housewife,
H.No.383, Dona Paula,
Panaji, Goa. ... Applicant

versus

State of Goa through
1). Public Prosecutor
2). Margao Town Police
Station. ... Respondents

Mr. A. Prabhudesai, Advocate for the Applicant.

Mr. S. N. Sardessai, Public Prosecutor for the Respondents.

CORAM : N. A. BRITTO, J.

DATE : 21ST NOVEMBER,2005.

ORAL ORDER

Prospective job seekers on representation that they would be given jobs in Kuwait were made to part with their money by several accused acting in the name of Gemini Travel

Services. When giving of the jobs did not materialise as promised, several complaints were filed and as a result Crime No.211/05 under Section 420 r/w 34 I.P.C. and Sections 24 and 25 of Emigration Act, 1983 came to be registered at Panaji Police Station; Crime No. 182/05 came to be registered at Margao Town Police Station and Crime No.133/05 came to be registered at Nagshar, Pune Police Station. It is stated that the amount involved in this crime of Margao Town Police Station is about Rs.5,80,000/- and Pune Police Station it is about Rs.9,00,000/-.

2. The Crime No.182/05 of Margao Town Police Station has been registered against one Kennedy Lourenco, Ida Nunes (applicant), Thomas Sequeira, Constancio alias Concy de Souza and Abhijit Nagvenkar upon a complaint filed by Pravin R. Naik. The said Kennedy Lourenco was arrested on or about 6-10-2005 and it is stated that since then he is in judicial custody. Likewise, accused Constancio alias Concy de Souza was also arrested soon thereafter and is also in judicial custody. The accused Thomas Sequeira was arrested on 9-7-2005 and was ordered to be released on bail by the learned Judicial Magistrate

on 14-7-2005. It is stated that the applicant herein has been absconding.

3. The applicant approached the Court of Sessions, Margao, by her application dated 11-10-2005 for anticipatory bail but the same came to be rejected by the learned Sessions Judge, Margao on 20-10-2005. The applicant also approached the Court of Sessions, Panaji in Crime No.211/05 by her application dated 11-10-2005 and the learned Additional/Assistant Sessions Judge, Panaji by her Order dated 15-10-2005 granted the same, interalia, observing that the Order would remain in force for a period of 30 days and that in the meantime the applicant should seek regular bail from the concerned Court. Neither on behalf of the applicant or for that matter on behalf of the respondent it has been stated whether the said Order of the learned Additional/Assistant Sessions Judge dated 15-10-2005 has been complied with or not and in case the same has not been complied with, it would only reinforce the allegation of the respondent that the applicant has been absconding which fact is otherwise also reflected from the case diaries which are produced for my perusal.

4. As per the complaint of Pravin R. Naik which came to be registered under Crime No.182/05 of Margao Town Police Station the said Kennedy Lourenco, Mrs. Ida Nunes(applicant herein) and Thomas Sequeira had informed them that they were the officials of the said Gemini Travel Services and had further represented to them that they were reputed recruiting agents and were engaged in the business of arranging jobs abroad and all three of them after perusing their certificates and other documents had assured them that they would arrange suitable jobs for them in Gulf countries and that they should arrange money and then come to Porvorim at their Office for final talks and to finish other formalities. It appears that thereafter, the said complainant and others met the said Kennedy, Thomas and Mrs. Ida at their Office at Porvorim who again, informed them that on receipt of money they would complete the necessary formalities and would be given jobs in Kuwait after arranging ticket and visa within a period of 45 days and as a result, the said Pravin Raghuvir Naik parted a sum of Rs.18,000/- and likewise one John and Gulab also parted with an amount of Rs.18,000/- each. Subsequently, the said Kennedy asked them to go for medical examination and not only that the said complainant was given a xerox copy of a purported visa in Arabic language which later he found to be fabricated. Subsequently, as no jobs were given the said Kennedy issued post-dated cheques through the

said Concy which bounced and subsequently the said Concy also gave a written undertaking that the money would be returned by 30-5-2005 and since no amount was paid the said complaint came to be filed on 25-6-2005.

5. The investigations show that the applicant herein was in charge of the Office of the said Gemini Travel Services as well as its financial transactions. In the light of that, the contention of the applicant that she was only a receptionist of the said Gemini Travel Services, Porvorim does not appear to be correct. On the contrary, it has been submitted by Mr. Prabhudessai, the learned Counsel appearing on behalf of the applicant, that the undated certificate issued to the applicant stating that she was the Secretary drawing a basic salary of Rs.5000/- was obtained with a view to obtain a Bank loan for a motor-cycle.

6. Mr. Prabhudessai, has submitted that custodial interrogation of the applicant is not necessary since nothing would be achieved by such custodial interrogation.

7. On the other hand, Mr. S. N. Sardessai, the learned Public Prosecutor has submitted that crimes of the nature committed by

the applicant and others are on rise and as such the application for anticipatory bail needs to be rejected. Mr. Sardessai has also submitted that custodial interrogation is also necessary to find out as to how the fake visas were obtained, other documents involved in the case as well as the money which was collected from the said complainant and others. Mr. Sardessai has submitted that not a single prospective job seeker was provided with a job.

8. Seriousness of the offence committed and the need for custodial investigation are the prime considerations for the grant or refusal of anticipatory bail. It is certainly not the case of the applicant that she is sought to be arrested with a view to injuring her or humilating her. Considering the amount of money involved in this crime, the offences alleged to have been committed by the applicant along with others appear to be serious and the materials show prima facie that applicant is also directly and deeply involved in the commission of the said offences. As a person in charge of the Office of the said Gemini Travel Services and in charge of its financial affairs, the interrogation of the applicant in custody is bound to help the

respondents in completing the investigations of the case including finding out where and by whom the visas were fabricated. The applicant has been absconding, as can be seen from the case diaries and this conduct on the part of the applicant certainly disentitles her for bail discretion being exercised in her favour. As aptly put by the Supreme Court in the case of **Nirajan Singh**(AIR 1980 SC 785) an outlaw cannot ask for the benefit of law and he who flees from justice cannot claim justice.

9. In the light of the above, in my view, this is not a fit case to admit the applicant to anticipatory bail. The application, therefore, is hereby rejected.

N. A. BRITTO, J.

RD.